

JUDGE'S COPY

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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WALTER PENN,

Plaintiff

v.

BEN E. VARNER, et al.,

Defendants

No. 1:CV-00-0771
(Judge Rambo)

FILED
HARRISBURG, PA

JUL 3 2000

DEFENDANTS' MOTION TO DISMISS THE COMPLAINT

MARY E. D'ANDREA, CLERK
Per g/s
Deputy Clerk

Defendants, Ben Varner, David Larkins, Kenneth Burnett, Hensyl Dietterick, Robert Long, David CeBrick, Ned Sutliff, Bonita Malloy, Donald Jones, and Martin Horn, by their attorneys, hereby move the Court, pursuant to Fed.R.Civ.P. 12(b)(6) to dismiss Complaint for failure to state a claim upon which relief can be granted.

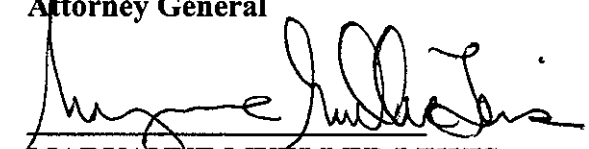
A supporting brief is being filed concurrently with this motion.

WHEREFORE, the Complaint should be dismissed against the defendants.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


MARYANNE MUELLER LEWIS
Deputy Attorney General
Attorney ID# 82813

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DATE: July 3, 2000

SUSAN J. FORNEY
Chief Deputy Attorney General

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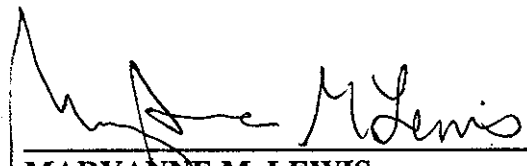
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CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing Defendants' Motion to Dismiss the Complaint, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

Walter Penn, #AP-9156
SCI-Dallas
Drawer K
Dallas, PA 18612-0286


MARYANNE M. LEWIS
DEPUTY ATTORNEY GENERAL

DATE: July 3, 2000